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101ST CONGRESS
2d Session

SENATE

REPORT
101-344

AUTHORIZING APPROPRIATIONS FOR THE FEDERAL ELECTION COMMISSION FOR FISCAL YEAR 1991

JUNE 27 (legislative day, JUNE 11), 1990.—Ordered to be printed

Mr. FORD, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. 2799]

The Committee on Rules and Administration, having considered an original bill (S. 2799) to authorize appropriations for the Federal Election Commission for fiscal year 1991, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill would authorize appropriations for the Federal Election Commission for the fiscal year ending September 30, 1991, in the amount of $17,150,000, an increase of 11.9% over the $15,330,000 authorized for fiscal 1990. The Office of Management and Budget, after reviewing the Commission's intial budget request of $18,679,000, has proposed this level of funding and the FEC is in agreement.

This proposed budget, 70% of which covers personnel costs, includes the 3.6% pay raise in January 1990 and partial coverage for a 3.5% pay raise anticipated in January 1991, as well as support for the Commission's new office automation system. The FEC will also use these funds to conduct an education program regarding participation in the presidential election fund tax checkoff.

COMMITTEE HEARING

At a hearing on May 10, 1990, the Committee received testimony on the fiscal year 1991 budget request.

Commission witnesses testified that the growth in campaign spending increases the Commission's audit, enforcement, and dis-

S683-9

closure workloads; they projected a 32% increase in 1990 over the 1986 congressional election cycle in the amount of campaign spending reported to and regulated by them. The FEC must also begin preparing for the 1992 presidential elections, which are estimated to involve between $1.75 and $2.0 billion in disbursements for federal candidates.

The Commission's funds are used also to support their information program, which assists the public in its understanding of the Federal Election Campaign Act. Permission was requested to earmark $5,000 of the requested budget for expenses relating to visits from State and local election officials and from foreign delegations seeking assistance and information.

The Chairman indicated that he was troubled by the foreign travel by Commission representatives and the characterization of such trips as official business. Such travel has not been specifically authorized by statute. The Federal Election Commission has well-defined responsibilities and duties and the Chairman of the Committee believes there is a serious question as to the Commission's statutory authority to engage in foreign travel on behalf of the United States or to accept gifts and donations in support of such travel. The Chairman stated that any further foreign travel should be undertaken only at the request of the State Department and pursuant to statutory authorization. The Committee would consider the Commission's request for such authorization if deemed necessary by the Commission.

The Committee was advised that the Presidential Election Campaign Fund, which is funded by the one dollar income tax check-off, may not be adequate to finance the 1992 elections. The Commission plans to allocate funds from their FY 1991 budget for an educational program to encourage taxpayer's use of the check-off. There was agreement on the necessity for restoring confidence in the system of funding presidential campaigns.

Committee Action

On June 13, 1990, the Committee on Rules and Administration held a markup on the accompanying original bill to authorize appropriations for the Federal Election Commission for fiscal year 1991. It was passed by a record vote of 9-0 and was ordered favorably reported by the Committee.

Committee Rollcall Vote

In compliance with paragraph 7 (b) and (c) of rule XXVI of the Standing Rules of the Senate, the record of the rollcall vote in the Committee on Rules and Administration during its consideration of this measure was:

YEAS—9	NAYS—0
Mr. Pell	
Mr. DeConcini	
Mr. Moynihan	
Mr. Stevens	
Mr. Hatfield	
Mr. Dole	

Mr. Garn
Mr. McConnell
Mr. Ford

The Chairman presented the proxies of Mr. Byrd, Mr. Inouye, Mr. Gore and Mr. Dodd in favor of the bill.

Cost Estimate

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimate of costs of this measure prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act, is as follows:

Congressional Budget Office—Cost Estimate

1. Bill number: Not yet assigned.
2. Bill title: A bill to authorize appropriations for the Federal Election Commission for fiscal year 1991.
3. Bill status: As ordered reported by the Senate Committee on Rules and Administration, June 13, 1990.
4. Bill purpose: The bill authorizes the appropriation of $17.2 million to the Federal Election Commission (FEC) for fiscal year 1991. The 1990 budget authority is currently $15.3 million, and the President has requested $17.2 million for 1991.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Authorization level	17.2				
Estimated outlays	15.5	1.7			

Including outlays from prior years' appropriations to date, total outlays in 1991 would be about $17.0 million, assuming appropriation of the authorized amount.

The costs of this bill fall within budget function 800.

Basis of estimate: this estimate assumes the amount authorized will be appropriated. The estimate of outlays is based on historical spending patterns.

6. Estimated cost to State and local governments: None.
7. Estimated comparison: None.
8. Previous CBO estimate: this estimate supersedes a previous one dated June 14, 1990, and reflects corrected fiscal year headings in the cost estimate table.
9. Estimate prepared by: James Hearn.
10. Estimate approved by: C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Regulatory Impact Evaluation

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee received the following information from the Federal Election Commission as to the regulatory impact of this measure:

FEDERAL ELECTION COMMISSION,
Washington, DC, June 5, 1990.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to the Committee's recent request for information regarding the regulatory impact of the Federal Election Commission's fiscal year 1991 authorization bill.

The information is attached. Should you desire additional assistance please feel free to contact me.

Sincerely,

LEE ANN ELLIOTT,
Chairman.

Enclosure.

Question 1. An estimate of the number of individuals and businesses to be regulated by the Commission, and a determination of the groups and classes of such individuals and businesses.

Answer. The Commission regulates seven categories of persons and political committees: Presidential candidates and committees; candidates and committees engaged in races for House and Senate seats; party-related committees; non-party related political committees; individuals or committees making independent expenditures; delegates and delegate committees; and persons making expenditures for communication costs. The table which follows indicates the number of filers in each category, the number of reports and statements filed by each, and the gross receipts and expenditures for the period covering calendar year 1989.

SUMMARY OF DISCLOSURE FILES

	Total filers existing in 1989	Filers terminated as of Dec. 31, 1989	Continuing filers as of Dec. 31, 1989	Number of reports and statements in 1989	Gross receipts in 1989	Gross expenditures in 1989
Presidential:						
Candidates	252					
Committees	282	10	272	434	$7,140,220	$11,421,683
Senate:						
Candidates	459					
Committees	485	32	453	770	85,254,826	46,076,747
House:						
Candidates	2,262					
Committees	2,367	209	2,158	3,441	86,912,532	67,539,576
Party committees	461	49	412	1,038	233,519,103	227.563,898
Delegate committees	83	1	82	1	0	0
Nonparty committees	4,407	229	4,178	14,094	177,747,034	135,895,852
Labor committees	361	12	349	1,310	44,863,269	31,935,933
Corporate committees	1,878	82	1,796	7,183	51,931,639	40,004,916
Membership, trade and other committees	2,168	135	2,033	5,601	80,952,126	63,955,003
Communication cost filers	176	NA	NA	27	NA	89,312
Independent expenditures by persons other than political committees	133	NA	NA	18	NA	125,218

Question 2. The Commission's opinion as to the economic impact of such regulations on the individuals, consumers and business affected.

Answer. The Act is so specific in its requirements that the major economic impact on affected individuals and organizations is directly imposed by the Act, not the implementing regulations.

Question 3. The Commission's opinion of the impact on the personal privacy of the individuals affected.

Answer. Because a purpose of the Federal Election Campaign Act is to provide for the disclosure of contributions and expenditures made in campaigns for Federal office, there is obviously some impact on privacy. Congress believed that this slight impact on privacy was warranted in order to promote the policy of disclosure. Again, it is the Act, rather than implementing regulations, which produces this result.

Question 4. A determination of the amount of additional paperwork that will result from regulations to be promulgated by the Commission during Fiscal Year 1991. This determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the authorization request could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the authorization.

Answer. Regulations that the Commission will probably promulgate during FY 1991 include:

Allocation Between Federal and Non-federal Accounts.

Debt Settlement.

Presidential Primary and General Election Candidates: Technical Requirements for Computerized Magnetic Media.

As in the past, the Commission will place a high priority on the reduction of unnecessary paperwork. A major goal of the regulation projects mentioned above is to avoid imposing burdensome requirements upon those regulated by the Federal Election Campaign Act. (See attached memorandum regarding status of regulations projects.)

[Federal Election Commission, Agenda Document No. 90-31]

MARCH 22, 1990.

MEMORANDUM

To: The Commission.
Through: John C. Surina, Staff Director.
From: Lawrence M. Noble, General Counsel; N. Bradley Litchfield, Associate General Counsel; and Susan E. Propper, Assistant General Counsel.
Subject: Status Of Regulations Projects.

This memorandum reflects the status of regulations projects as of March 31, 1990.

PROJECT COMPLETED

Affiliation and Earmarking (11 CFR 110.3–110.6)

The Commission announced the effective date of these rules on November 24, 1989.

PENDING BEFORE CONGRESS

Foreign Nationals (11 CFR 110.4(a))

The Commisson's final rules and explanation and justification were transmitted to Congress on November 17, 1989. After 30 legislative days have passed, we will circulate an Announcement of Effective Date for Commission approval.

ONGOING PROJECTS

1. Allocation regulations (11 CFR part 106)

The Commission has considered a series of alternatives on the issues presented by this rulemaking at its meetings of December 14, 1989, and January 24, February 8, and February 15, 1990. At the last two meetings, the Commission reached agreement on seven basic issues, asked for alternatives on several more and directed the Staff Director to prepare draft reporting forms. A revised draft of the rules and the proposed new forms will be circulated for the Commission's open meeting of April 5, 1990.

2. Extensions of credit and debt settlement (11 CFR parts 110 and 114)

At its meeting of February 1, 1990, the Commission directed the Office of General Counsel to make several changes in the final rules and directed the Staff Director to prepare new forms for the submission of debt settlement requests. The revised rules will be circulated approval of the final rules, the Office of General Counsel will complete and circulate a draft Explanation and Justification for Commission consideration.

3. Bank loans (11 CFR part 100)

Written comments on the Commission's Notice of Proposed Rulemaking continued to come in through November 7, 1989. We have nearly completed an analysis of the comments received, a process which has led us to further contacts with the banking regulatory agencies for advice and counsel on banking practice and current regulations. A document discussing the comments and containing recommendations for changes in the proposed rules will be forwarded for Commission consideration as soon as feasible.

4. Public financing (11 CFR parts 9001 et seq., 9008, and 9031 et seq.)

This project will be broken down into several components. The first, covering proposed requirements for submission of computer magnetic media, has been circulated for the agenda of March 29, 1989. Other notices will cover proposed revisions of the convention regulations and the rules governing publicly financed Presidential candidates. We have begun drafting in both areas and will forward these documents to the Commission in the near future.

5. Disclaimer notices (11 CFR 110.11)

This section had been included in a Notice of Proposed Rulemaking published in an earlier miscellaneous regulations project. During Commission discussion of that project, the range of issues

to be considered in section 110.11 was expanded and this section became the subject of a separate rulemaking. We are examining the legal ramifications of certain proposals raised for possible inclusion in this section and will be preparing a document for Commission consideration upon completion of this review.

6. 11 CFR 102.5

This section of the regulations has been the subject of numerous compliance actions and advisory opinions in recent years. We have begun work on a Notice of Proposed Rulemaking to address the issues raised in this area, but have postponed its completion pending the Commission's final approval of the allocation rules, which will resolve some relevant questions.

7. National Right to Work Committee—Petition for rulemaking

As the issues in this rulemaking are likely to be significantly affected by several cases currently in litigation, most notably the Supreme Court's consideration of *Austin* v. *Michigan Chamber of Commerce,* we have postponed further action pending these developments.

8. Inspector general regulations

We have been working with the Inspector General's office to assist in the development of regulations related to the IG's duties. The areas covered will include the Privacy Act, Freedom of Information Act, and IG supoena procedures.

9. FOIA/Public disclosure (11 CFR parts 4 and 5)

Additional staff comments on a draft Notice of Proposed Rulemaking have been received and incorporated. We plan to finalize this document and forward it for Commission approval once other projects are nearer to completion.

10. Ethics regulations (11 CFR part 7)

Following the recent passage of the Ethics Reform Act, and the adoption of regulations implementing that Act by the Office of Government Ethics, we are reviewing our regulations on Standards of Conduct to determine whether any corresponding revisions are warranted.

11. Compliance procedures (11 CFR part 111)

Substantial work has been completed on a draft Notice of Proposed Rulemaking. We will finalize this document when staff becomes available for this assignment.

12. Recordkeeping and reporting (11 CFR parts 102 and 104)

This project is a review of the recordkeeping and reporting rules and is intended to address a variety of problem areas that could benefit from regulatory review. As time permits, we will return to this review and complete preparation of a draft Notice of Proposed Rulemaking. It should be noted, however, that in the interim we have successfully incorporated a number of issues originally raised by this project in other rulemakings.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported by the Committee on Rules and Administration, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

Section 439c of Title 2, United States Code

AUTHORIZATION OF APPROPRIATIONS

SEC. 439c. There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed $5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $6,000,000 for the fiscal year ending September 30, 1977, $7,811,500 for the fiscal year ending September 30, 1978, [and] $9,400,000 (of which not more than $400,000 are authorized to be appropriated for the national clearinghouse function described in section 438(a)(10) of this title) for the fiscal year ending September 30, 1981, *and $17,150,000 for the fiscal year ending September 30, 1991.*

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